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Attorney Docket No. 103419-0003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Epley, John M.

Serial No. 10/715,871

Examiner: Hoekstra, Jeffrey Gerben

Confirmation No. 5600

Filed: November 17, 2003

Group Art Unit: 3736

For: HEAD-STABILIZED MEDICAL APPARATUS, SYSTEM AND METHODOLOGY

Date: December 23, 2008

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION

Responsive to the Non-Final Office Action mailed July 2, 2008, applicant requests reconsideration of the application in light of the arguments and amendments provided herein.

Summary of Examiner Interview begins on page 2 of this paper.

Listing of Claims begins on page 4 of this paper.

Remarks/Arguments begin on page 11 of this paper.

SUMMARY OF EXAMINER INTERVIEW

Interview Date: 16 December 2008

Attendees: USPTO - Examiner Jeffrey G. Hoekstra

Applicant's Representative - Patrick D. Boyd, Reg. #54,671

Applicant's Representative - James G. Stewart, Reg. #32,496

Exhibits/Demonstrations: None

Claims Discussed: Independent claims 1, 7, and 20

Prior Art Discussed: US 6,159,171 (Densert), US 5,942,954 (Galiana), and US 5,900,849 (Gallery)

Principle Proposed Amendments: See Summary of Discussion below

General Summary of Discussion:

Applicant's representatives asked whether the July 17, 2008 Non-Final Office Action asserted that the cited features of Densert (19, 20, 28, and 30) are severable from the main Densert device and attachable to the head-worn structure of Galiana, or whether the entire Densert device is so attachable. Examiner Hoekstra clarified that the intent was for the entire Densert device to be so attachable.

Applicant's representatives additionally asked what the Examiner considered to be the image capture device anchored with the head-wearable structure in Galiana, considering that Galiana's described EOG must be attached to the subject's skin, and Galiana describes that the video-based eye trackers are 'non-contact', while the head perturber is 'in contact with' the subject's head. Examiner Hoekstra stated that he considered the 'non-contact' language to distinguish the video-based eye trackers from the 'contact' EOG, not from the head-contacting head perturber.

The Examiner stated that he considered that Galiana disclosed that a video image capture device can be anchored with the head-worn structure. Applicant's representatives pointed out that while Galiana specifically recites that a *display device* can be either distant from the subject or worn by the subject on a head-wearable visor, Galiana does not similarly describe that the image capture device is or can be so anchored, and depicts only head-wearable structures without image capture devices anchored thereto.

By contrast, applicant's claims, specification, and drawing figures consistently describe and/or depict the image capture device is anchored to the head-wearable frame structure.

Examiner Hoekstra pointed out that applicant's pending claims do not specifically recite that an image capture device is anchored to the head-wearable frame in a condition of positional stability, but that an amendment clarifying and providing that limitation would distinguish the claims over Galiana. Applicant's representatives agreed to so amend the claims, and to contact the Examiner to review the proposed amendment prior to submitting applicant's response to the outstanding Non-Final Office Action.

Proposed amended claims were subsequently reviewed with the Examiner by applicant's representatives, and the Examiner agreed that the amendments, if submitted in a formal response to the Non-Final Office Action, would clearly and effectively recite an arrangement wherein the image capture device is anchored to, and in a condition of stability relative to, the head-wearable frame.

This concludes the substance of the discussion in the interview.

General Results of Interview:

The applicant representatives now generally understand the nature of the Office's position regarding the cited references.

Applicant respectfully submits that the summary of the 16 December 2008 interview described above includes the "substance of the interview" in compliance with MPEP § 713.04. The Examiner is encouraged to telephone the undersigned at (503) 226-8468 if it appears that any substantive matters are omitted herein.